

1 Alan Harris (SBN 146079)
Jonathan Ricasa (SBN 223550)
2 David Zelenski (SBN 231768)
HARRIS & RUBLE
3 5455 Wilshire Boulevard, Suite 1800
Los Angeles, California 90036
4 Telephone: (323) 931-3777
Facsimile: (323) 931-3366
5 law@harrisandruble.com
jricasa@harrisandruble.com
6 dzelenski@harrisandruble.com

7 Attorneys for Plaintiff

8 Rex S. Heinke (SBN 66163)
Damien P. DeLaney (SBN 246476)
9 AKIN GUMP STRAUSS HAUER & FELD LLP
2029 Century Park East, Suite 2400
10 Los Angeles, California 90067
Telephone: (310) 229-1000
11 Facsimile: (310) 229-1001
rheinke@akingump.com
12 ddelaney@akingump.com

13 W. Randolph Teslik, P.C.
AKIN GUMP STRAUSS HAUER & FELD LLP
14 1333 New Hampshire Avenue, NW, Suite 1000
Washington, DC 20036
15 Telephone: (202) 887-4000
Facsimile: (202) 887-4288

16 Attorneys for Defendant

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA
19

20 HELEN KANG, individually and
21 on behalf of all others similarly
situated,

22 Plaintiff,

23 v.

24 ALBERTSON'S, INC., a Delaware
25 Corporation dba AMERICAN
26 DRUG STORES, INC. and DOE 1
through and including DOE 100,

27 Defendants.
28

Case No. 2:07-CV-00894-CAS (FFMx)

**JOINT EX PARTE APPLICATION
RE APPROVAL OF AMENDED
STIPULATION OF SETTLEMENT**

Assigned to Hon. Christina A. Snyder

1 Plaintiff Helen Kang and Defendant Albertson's, Inc. hereby jointly apply to the
2 Court for and order approving an Amended Stipulation of Settlement. This Ex Parte
3 Application is made on the following grounds:

4 1. On March 24, 2008, the parties executed a Stipulation of Settlement which
5 was the culmination of several months of negotiation and two mediation sessions before
6 the Honorable Frederick Mumm. On April 9, 2008, this Court conditionally certified a
7 settlement class and granted preliminary approval to the parties' settlement. Pursuant to
8 the Court's order, notice of preliminary approval of settlement and final approval hearing
9 and right to be excluded from the settlement is to be mailed to the settlement class on
10 June 6, 2008.

11 2. As the Defendant compiled information to facilitate the notice, it became
12 clear that a group of class members had been inadvertently omitted from the data upon
13 which the parties relied in negotiating the Stipulation of Settlement, and which was
14 presented to the Court for its consideration of the Plaintiff's Motion for Conditional
15 Certification of Settlement Class, Preliminary Approval of Settlement, and Approval of
16 Settlement Administrator. Specifically, Plaintiff in her Motion and supporting papers
17 represented that the settlement class had 2274 members, who had worked a total of
18 195,054 workweeks during the relevant period. In fact, the number of class members is
19 2426, and the number of workweeks during the relevant period is 292,059.¹

20 3. The parties met and conferred regarding these changed circumstances, and
21 agreed to amend their original Stipulation of Settlement, subject to the approval of the
22 Court. The product of these continued negotiations is an Amended Stipulation of
23 Settlement, attached hereto as Exhibit 1.

24 4. Fundamentally, the Amended Stipulation of Settlement increases the
25 maximum settlement amount by the precise percentage increase in workweeks worked
26

27 ¹ The number of workweeks assumed during the parties' negotiations was 195,054.
28 Updating those workweeks to the date of this Court's order of preliminary approval
added an additional 2887 workweeks. Thus, 94,118 additional workweeks are
attributable to the class members inadvertently omitted from the original data.

1 by class members. Thus, since the actual workweeks during the class period represent a
2 47.5% increase in the number of workweeks the parties had originally assumed to have
3 existed, the Amended Stipulation of Settlement reflects a 47.5% increase in the
4 maximum settlement amount, or from \$4,500,000 to \$6,637,500. A similar percentage
5 increase is reflected in the amount of attorney's fees, costs, and expenses for which Class
6 Counsel can seek approval from the Court (that amount is increased from \$1,350,000 to
7 \$1,991,250), and the amount to be paid by settling defendants to the California Labor
8 and Workforce Development Agency (that amount is increased from \$20,000 to
9 \$29,500). Further, the contribution to City of Hope of any residual after all payments
10 pursuant to the Stipulation of Settlement are made will be limited to the difference, if
11 any, between all payments contemplated by the Stipulation of Settlement and
12 \$4,500,000. Any residual after all payments made pursuant to the Stipulation of
13 Settlement and any contribution to City of Hope, up to the maximum settlement amount
14 of \$6,637,500, will revert to settling defendants. The notice of preliminary approval of
15 settlement and final approval hearing and right to be excluded from the settlement has
16 been modified to reflect these changes, and is attached hereto as Exhibit 2.

17 /////

18 /////

19 /////

20 /////

21 /////

22 /////

23 /////

24 /////

25 /////

26 /////

27 /////

28 /////

1 5. It is the intent of the parties that the Amended Stipulation of Settlement will
2 ensure that the class members are compensated by settlement amounts equivalent to
3 those expected under the Stipulation of Settlement as originally considered and
4 preliminarily approved by the Court. Moreover, it is the intent of the parties that the
5 original schedule of notice remain as defined by the Stipulation of Settlement.
6

7 DATED: June 3, 2008

HARRIS & RUBLE

8 /s/

9 Alan Harris

10 *Attorneys for Plaintiff*

11 DATED: June 3, 2008

AKIN GUMP STRAUSS HAUER & FELD LLP

12 /s/

13 W. Randolph Teslik, P.C.

14 *Attorneys for Defendant*
15
16
17
18
19
20
21
22
23
24
25
26
27
28